IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

TUESDAY, THE 6TH FEBRUARY 2007 / 17TH MAGHA 1928

WP(C).No. 949 of 2007(K)

PETITIONER:

MUJEEB RAHMAN, S/O. MUHAMMED ALI,
KUNNATHUPEEDIKA VEEDU, MANIMOOLI,
MALAPPURAM DISTRICT.

BY ADV. SRI.BABU S. NAIR

RESPONDENTS:

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1. THE JOINT REGISTRAR,
CO-OPERATIVE SOCIETIES, MALAPPURAM.

2. THE ERNAD PRIMARY CO-OPERATIVE
AGRICULTURAL AND RURAL DEVELOPMENT BANK LTD.
NO.4363, KARUVAMBRAM, MANJERI,
MALAPPURAM DISTRICT, REPRESENTED BY
ITS SECRETARY.

3. THE SPECIAL SALE OFFICER,
THE ERNAD PRIMARY CO-OPERATIVE AGRICULTURAL AND
RURAL DEVELOPMENT BANK LTD. NO.4363,
KARUVAMBRAM, MANJERI, MALAPPURAM DISTRICT.

4. A.V.VARKEY, S/O. VARGHESE,
ARAKKAL VEEDU, MANIMOOLI,
MALAPPURAM DISTRICT.

BY ADV. SRI.P.N.RAVINDRAN FOR R2
SMT.PREETHY KARUNAKARAN
SMT.MEENA.A.
SMT.M.R.MINI
SRI.JAYKAR.K.S.
SRI.P.SAMSUDIN FOR R4
GOVERNMENT PLEADER SRI.P.K. RAVIKRISHNAN FOR R1

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1(a) TO P1(c)- TRUE COPIES OF THE RECEIPTS ISSUED BY THE SECOND RESPONDENT EVIDENCING THE PAYMENT MADE BY THE PETITIONER.

EXT.P2- TRUE COPY OF THE ORDER OF THE FIRST RESPONDENT AS NO.3316/06/AEL/K-DIS. DATED 21.8.2006, CONFIRMING THE SALE OF THE PROPERTIES.

EXT.P3- TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN W.P.(C).21868/06 DATED 17.8.2006

RESPONDENT'S EXHIBITS

EXT.R4(a)- TRUE COPY OF THE REPRESENTATION BEFORE THE 2ND RESPONDENT DATED 24.8.2006

EXT.R4(b)- TRUE COPY OF THE REPLY GIVEN BY THE 2ND RESPONDENT DATED 2.12.2006

EXT.R4(c)- TRUE COPY OF REPRESENTATION BEFORE 1ST RESPONDENT DATED 28.12.2006

EXT.R4(d)- TRUE COPY OF THE REPRESENTATION BEFORE THE 1ST RESPONDENT DATED 8.1.2007

(TRUE COPY)

P.A TO JUDGE

J.M.JAMES, J.

W.P.(C). 949/2007 (K)

Dated this the 6th day of February, 2007

JUDGMENT

The writ petitioner is the auction purchaser of the property belonging to the fourth respondent, who was a defaulter to the second respondent, Co-operative Agricultural and Rural Development Bank. Even after the auction, though opportunities were given to the fourth respondent, he did not clear the debts due to the second respondent. Therefore, as per the order dated 21.8.2006, the first respondent, the Joint Registrar, had confirmed the sale in favour of the auction purchaser. However, the documents are not so far handed over to and the sale certificate is not entrusted with, the writ petitioner.

2. In the meanwhile, the fourth respondent approached the second respondent, bank, with an One Time Settlement application, requesting to extend the facilities and benefits, contained in the One Time Settlement. Accordingly, the Secretary of the second respondent granted an One Time Settlement and fixed the amount due from the fourth respondent for the four different loans, as on 02.12.2006 totalling to

Rs.8,02,425/-, as per Ext.R4(b). It was further directed by the second respondent, in Ext.R4(b) that in case of any failure on the part of the fourth respondent to pay the amount of Rs.8,02,425/- before 15.12.2006, the sale certificate shall be handed over to the writ petitioner. As no auction took place thereafter, the writ petitioner is before this Court with this petition, praying that the property may be registered in the name of the petitioner and the directions to this effect may be issued to the respondents 2 and 3.

3. I heard the detailed arguments advanced by the learned counsel for the fourth respondent, the learned counsel for the second respondent as well as the learned counsel for the petitioner. During the hearing, I had directed the counsel for the fourth respondent to verify from the fourth respondent whether he would be able to pay back the money to the writ petitioner. Accordingly, upon instructions, the counsel submits that the entire amount, as envisaged under Ext.R4(b) dated 2.12.2006, shall be paid to the writ petitioner, within three months from today, either in lumpsum or in monthly instalments, together with the interest, at the rate of 10% per annum, for the whole amount of Rs.8,02,425/-, from 15.12.2006 till the date of payment.

4. Ext.R4(b) dated 02.12.2006, is modified to the above extent. However, I make it clear that in the event of the payment, being materialised as above, the sale dated 21.3.2006 and Ext.P2 order of the Joint Registrar dated 21.8.2006 confirming the sale will stand set aside. The entire documents relating to the properties relating to the original loan and subsequent proceedings, shall be handed over to the fourth respondent.

5. In case of any failure of the above arrangements from the part of the fourth respondent, Ext.R4(b) order will be implemented in toto, executing a sale deed, in favour of the writ petitioner, within thirty days from the date of non-compliance.

6. It is undertaken by the counsel for the fourth respondent, upon instruction from fourth respondent, that all the proceedings, including the one before the first respondent, initiated at the instance of the fourth respondent, will be withdrawn immediately.

The writ petition is closed as above.

J.M.JAMES
JUDGE

mrcs